

### **REMARKS/ARGUMENTS**

Claims 1-27 of the present application are pending. Claims 4 and 14-27 have been withdrawn from consideration by the Examiner. Claims 1-3 and 5-13 have been rejected.

#### ***Claim Rejections - 35 U.S.C. § 103***

Claims 1-3, 5-8, and 11-13 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,729,190 to Lee in view of U.S. Patent No. 5,525,130 to Beaudry. The Applicant respectfully traverses the rejection. To establish a prima facie case of obviousness, the Examiner must meet three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. (see MPEP §2143.03).

Lee discloses a membrane-forming polymeric system comprising the molecular association product of a polymeric carboxylic acid having at least 10% of the monomer units containing free carboxylic groups with an ethoxylated nonionic surfactant. The Examiner has stated that the disclosed polymeric system "inherently" has a plurality of cells and a that it has a quantity of gas contained within one or more of the plurality of cells. The Examiner further states that ethylene is not disclosed in Lee.

Beaudry discloses a patch applied, for example, to a fruit of vegetable for releasing a gas, such as ethylene.

The Examiner has stated that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the composition of Lee by using ethylene gas as disclosed in Beaudry. Applicant respectfully disagrees.

Independent claim 1, and all of the claims dependent therefrom, recite a microporous solid having a plurality of cells and a quantity of ethylene gas contained

within one or more of the plurality of cells. As stated above, Lee does not disclose ethylene. As will become clearer below, there is a reason for this lack of disclosure.

Applicant asserts that there is no motivation or suggestion to combine Lee and Beaudry. Furthermore, applicant asserts that Lee and Beaudry cannot be combined to yield the present invention. The polymers disclosed in Lee are not permeable to ethylene. Ethylene gas would not diffuse through the polymer membranes disclosed in Lee. For that reason, it is not known how one could put ethylene into a cell formed from the Lee polymer. One could not use the Lee polymer to construct a microporous solid having a plurality of cells and further having ethylene within one or more of the cells. Thus, Lee and Beaudry could not be combined to yield the present invention. Claims 1-3, 5-8, and 11-13 are thus patentable over Lee and Beaudry, either alone or in combination.

Claims 9 and 10 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,729,190 to Lee in view of U.S. Patent No. 5,525,130 to Beaudry and further in view of U.S. Patent No. 5,252,542 to Allan.

The disclosures of Lee and Beaudry have been discussed above. Allan discloses controlled release compositions which include chemical impregnants in biodegradable, microporous structures. Allan specifically discloses the use of a biodegradable carrier of never dried wood pulp of  $\alpha$ -cellulose which entraps the bioactive impregnant and which is subsequently collapsed to a non-microporous mass by the process of drying the wet wood pulp. The impregnant is flowed into the carrier in solution form. However, Allan does not disclose a microporous solid having a plurality of cells and a quantity of ethylene gas contained within one or more of the plurality of cells. Thus, Allan could not be combined with either Lee or Beaudry or both. Thus, all of the claims and, in particular, claims 9 and 10 are patentable over Lee, Beaudry, and Allan, in any combination.

If the Examiner feels for any reason that direct contact with Applicant's attorney will advance the prosecution of this case to finality, the Examiner is invited to contact the undersigned at the number given below.

The Commissioner is authorized to charge any fee which may be required in connection with this response to deposit account No. 50-1329.

Respectfully submitted,

Dated: 12/8/04

A handwritten signature in cursive script, appearing to read "Bruce M. Canter", written over a horizontal line.

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